

(2) Requirements necessary to prevent any disadvantage or economic harm to consumers, protect universal affordable service, establish and maintain an affordable Universal Access Fund, protect the quality of telecommunications services, prevent anticompetitive practices, and prevent abandonment of service to areas where there is no competing provider of telecommunications service.

(e) Subject to any other provision of law protecting the confidentiality of trade secrets, the commission shall have access to the books and records of telecommunications companies as may be necessary to ensure compliance with the provisions of this article and with the commission's rules and regulations and to carry out its responsibilities under this article.

(f) In order to promote economic development and competitive advantage for the State of Georgia, the commission shall have the authority to petition, intervene, or otherwise commence proceedings before the appropriate federal agencies and courts having specific jurisdiction over the regulation of telecommunications seeking to enhance the competitive market for telecommunications services within the state. (Code 1981, § 46-5-168, enacted by Ga. L. 1995, p. 886, § 2.)

46-5-169. Company obligations associated with alternative regulation.

A company electing alternative regulation:

(1) Shall comply with orders issued and rules adopted by the commission to implement the express provisions of this article as a condition of obtaining or retaining a certificate of authority under this article;

(2) Shall not refuse any reasonable application for basic local exchange service;

(3) Shall not give any unreasonable preference or advantage to any customer when providing telecommunications services;

(4) Shall not, either directly or through affiliated companies, engage in any anticompetitive act or practice including but not limited to price squeezing, price discrimination, predatory pricing, or tying arrangements, as such terms are commonly applied in antitrust law;

(5) Shall not cross-subsidize nonregulated or alternatively regulated services with revenue created by regulated services;

(6) Shall not give any preference to affiliated companies;

(7) Shall allow the resale of its services. Nothing in this Code section shall restrict a customer from authorizing an agent to order such services on its behalf; and

(8) Shall not be required to seek regulatory approval of its depreciation rates or schedules. (Code 1981, § 46-5-169, enacted by Ga. L. 1995, p. 886, § 2.)

46-5-170. Access to local telephone numbering resources and assignments.

Providers of local exchange services shall have access to local telephone numbering resources and assignments on equitable terms that include recognition of the scarcity of such resources and that are in accordance with adopted national assignment guidelines and commission rules. Additionally, all local exchange companies shall make the necessary modifications to allow portability of local numbers between different certificated providers of local exchange service as soon as reasonably possible after such portability has been shown to be technically and economically feasible and in the public interest. (Code 1981, § 46-5-170, enacted by Ga. L. 1995, p. 886, § 2.)

46-5-171. Local call charges based on duration or time of call prohibited.

A local exchange company may not charge a residential customer or single line business for basic local exchange service based on the duration of a call or on the time of day that a call is made; provided, however, that such restriction shall not apply in any case where a customer or business requests charges based on the duration of a call or on the time of day that a call is made. This Code section does not prohibit a local exchange company from offering discounts based on the time of day that a call is made if the company also offers basic local exchange service at a rate permitted under Code Section 46-5-166. (Code 1981, § 46-5-171, enacted by Ga. L. 1995, p. 886, § 2.)

46-5-172. Annual report of Tier 1 company's investment commitment.

A Tier 1 local exchange company shall provide an annual report with quarterly updates to the commission regarding its investment commitment as prescribed in subsection (a) of Code Section 45-5-165. Contributions to infrastructure for distance learning and telemedicine by a Tier 1 local exchange company shall be considered an investment credit toward the required investment commitment of such Tier 1 company. (Code 1981, § 46-5-172, enacted by Ga. L. 1995, p. 886, § 2.)

46-5-173. Unpublished telephone identification.

(a) Any person that obtains an unpublished telephone identification using a telephone caller identification service may not do any of the following without the written consent of the customer of the unpublished telephone line identification:

- (1) Intentionally disclose the unpublished telephone line identification to another person for purposes of resale or commercial gain;
- (2) Intentionally use the unpublished telephone line identification to solicit business; or

(3) Intentionally disclose the unpublished telephone line identification through a computer data base, on-line bulletin board, or other similar mechanism.

(b) Each intentional disclosure or use of an unpublished telephone line identification is a separate violation. A person other than a corporation who violates subsection (a) of this Code section may be required by the commission to pay a civil penalty of not more than \$5,000.00. A corporation that violates subsection (a) of this Code section may be required by the commission to pay a civil penalty of not more than \$50,000.00.

(c) The commission shall promulgate rules to further establish privacy guidelines applicable to telecommunications services.

(d) No provider of telephone caller identification service shall be held liable for violations of this article committed by other persons or corporations. (Code 1981, § 46-5-173, enacted by Ga. L. 1995, p. 886, § 2.)

46-5-174. Commission's annual report to General Assembly.

The commission shall report to the General Assembly annually on the status of the transition to alternative regulation of telecommunications services in Georgia. (Code 1981, § 46-5-174, enacted by Ga. L. 1995, p. 886, § 2.)

RECEIVED

FEB 9 1996

COMMISSIONERS

DAVE BAKER CHAIRMAN
ROBERT B (BOBBY) BAKER
MAC BARBER
BOB DURDEN
STAN WISE

Executive Secretary WILLIAM J. DOVER
Sec. Public Service Commission JEFFREY M. LYNDALL
EXECUTIVE SECRETARY

Georgia Public Service Commission

244 WASHINGTON STREET S.W.
ATLANTA, GEORGIA 30334-5701
(404) 656-4501 OR 1 (800) 282-5813

DOCKET NO. 5825-U

**PROCEDURAL AND SCHEDULING ORDER
AND ORDER REQUIRING SUBMISSION OF INFORMATION
BY TELECOMMUNICATIONS COMPANIES**

IN RE: GPSC Docket No. 5825-U, Universal Access Fund

BY THE COMMISSION:

This matter comes before the Georgia Public Service Commission (the "Commission" on its own motion as part of the Commission's implementation of the Telecommunications and Competition Development act of 1995, the Universal Access Fund, and O.C.G.A. § 46-5-160 et seq. The purpose of this proceeding is to determine each telecommunication company's actual costs for providing Local Exchange Service, the need for contributions to the Universal Access Fund ("UAF") from telecommunication companies, the need for disbursements from the UAF to Local Exchange Companies, the amounts of any such contributions and disbursements, and reasonable guidelines for contributing to and disbursing from the UAF. The Commission will proceed according to the hearing schedule outlined in this Order.

SCHEDULE

Phase I - Submission of Information by Telecommunication Companies

February 26, 1996

All telecommunications companies, as defined in O.C.G.A. § 46-5-162 (17), shall file a notarized affidavit with the Commission's Executive Secretary which states such company's gross revenues from sale to end users of such company's telecommunication services in Georgia, as defined in O.C.G.A. § 46-5-162 (18). Such information is required for the purpose of computing each such company's cost for providing local exchange service and its proportionate contribution, if any, to the Universal Access Fund pursuant to O.C.G.A. § 46-5-167. This requirement shall not apply to companies which only provide private local exchange services or radio based local exchange services in this state. See O.C.G.A. § 46-5-167 (c).

Phase II - Local Exchange Companies and Other Parties
Implementation of O.C.G.A. § 46-5-167

March 18, 1996

Local Exchange Companies, as defined in O.C.G.A. § 46-5-162 (10) shall, prefile direct testimony and exhibits to support any claim to disbursements from the Universal Access Fund pursuant to O.C.G.A. § 46-5-167 (e) and in any response to the affidavits required in Phase I above. Any such filing shall contain all the information reasonably necessary to determine the actual and reasonable cost of providing basic local exchange service (O.C.G.A. § 46-5-167(f))

April 5, 1996

All other parties prefile any direct testimony in response to Local Exchange Companies' filings and in response to the affidavits required in Phase I above

April 12, 1996

All parties attend prehearing conference before the Commission commencing at 10 00 a.m. for the purpose of scheduling witnesses and order of testimony for the hearings commencing April 15, 1996

April 15-17, 22, 24-25, 1996

Hearings will be held before the Commission beginning at 10 00 a.m. on April 15, 1996

May 3, 1996

All parties file proposed orders and/or briefs

May 21, 1996

Administrative Session to consider decision

Phase III - Local Exchange Companies and Other Parties

Implementation of O.C.G.A. § 46-5-166 (f)(2)

March 18, 1996

Each Local Exchange Company, as defined in O.C.G.A. § 46-5-162 (10) (B), as well as any other interested party shall prefile direct testimony and exhibits to support its plan to implement O.C.G.A. § 46-5-166 (f) (2). The filings shall contain all necessary information to allow the Commission to govern the transition of Tier 2 local exchange company switched access rates to their corresponding interstate levels and shall include proposed adjustments of other rates, including those of basic local exchange services or universal service funds, as may be necessary to recover those revenues lost through the concurrent reduction of the intrastate switched access rates.

April 5, 1996

All parties prefile any rebuttal testimony

All parties prefile any direct testimony in response to the affidavits required in Phase I above.

Hearing dates will be assigned for each company by further order of the Commission

WHEREFORE, it is

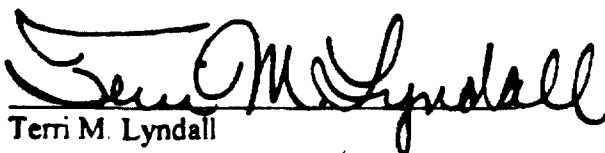
ORDERED, that the Commission shall proceed according to the procedure and schedule set forth in this Order.

ORDERED FURTHER, that all telecommunication companies comply with Phase I above


ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the purpose of entering such further order or orders as this Commission may deem just and proper

The above by action of the Commission in Administrative Session on February 6, 1996


Terri M. Lyndall
Executive Secretary

DATE: 2/9/96


Dave Baker
Chairman

DATE: 2/9/96

COMMISSIONERS:

DAVE BAKER, CHAIRMAN
ROBERT B. (BOBBY) BAKER
MAC BARBER
BOB DURDEN
STAN WISE



WILLIAM J. DOVER
EXECUTIVE DIRECTOR
TERRI M. LYNDALL
EXECUTIVE SECRETARY

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Docket No. 5825-U

FEB 7 1996

NOTICE OF PROPOSED RULEMAKING

Executive Secretary
Ga. Public Service Commission

TO: (a) Legislative Counsel - State of Georgia
(b) All Parties of Record - Docket No. 5825-U
(c) All Local Exchange Companies in Georgia
(d) All Interexchange Carriers in Georgia
(e) Consumers' Utility Counsel of Georgia
(f) Affected Commission Staff
(g) All Parties on GPSC Telecommunications and Utility Rulemaking Mailing List

FROM: Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334

IN RE: Consideration of Rule Concerning the Universal Access Fund under the Telecommunications and Competition Development Act of 1995

All interested parties are hereby notified pursuant to Ga. Laws 1964, pp. 338, 342, as amended (Official Code of Georgia Annotated ("O.C.G.A.") § 50-13-4) that the Georgia Public Service Commission ("Commission") intends to consider the adoption of a proposed rule concerning the Universal Access Fund under the Telecommunications and Competition Development Act of 1995 (Section 2 of S.B. 137), O.C.G.A. §§ 46-5-160 *et seq.*, and in particular O.C.G.A. § 46-5-167.

The Commission proposes that the rule become effective as provided by law twenty days after approval in the regularly scheduled Administrative Session on April 2, 1996 and subsequent filing with the Secretary of State.

Docket No. 5825-U

Page 1 of 7

I. NOTICE OF PROPOSED RULEMAKING

A. Introduction and Jurisdiction

The Georgia Public Service Commission is charged with the implementation and administration of Georgia's new Telecommunications and Competition Development Act of 1995, O.C.G.A. § 46-5-160 *et seq.* (hereafter "the Act"). As a part of this implementation, the Commission finds it appropriate to issue a new rule relating to the Universal Access Fund ("UAF").

Pursuant to O.C.G.A. § 46-5-167, the Commission is directed to create a Universal Access Fund to assure the provision of reasonably priced access to basic local exchange services throughout Georgia. The Commission is also to administer the Fund under rules that it shall promulgate as needed to assure that the fund operates in a competitively neutral manner between competing telecommunications providers.

The Act at O.C.G.A. § 46-5-168(b)(3) states that the Commission's jurisdiction includes the authority to establish and administer the Universal Access Fund including modifications to the maximum allowable charge for basic local service.

A Tier 2 Local Exchange Carrier's ("LEC") application may also include a demonstration of the amounts it seeks based upon the adjustment of its intrastate switched access charges to parity with its similar interstate access rates pursuant to O.C.G.A. § 46-5-166(f)(2).

B. Synopsis and Explanation of Proposed Rule

The primary purpose of the proposed rule is to establish guidelines for contributions to the Universal Access Fund, and distributions from the Fund.

The proposed rule also provides for the use of a Fund administrator, subject to the Commission's direction, to handle the receipt of contributions and the payment of distributions.

PROPOSED RULE
RULES
OF
GEORGIA PUBLIC SERVICE COMMISSION
515-12 TELEPHONE SERVICE
CHAPTER 515-12-2
TELEPHONE SERVICE COMPETITION

TABLE OF CONTENTS

515-12-2-.01	Commission Authority and Scope of Provisions.
515-12-2-.02	Definitions.
515-12-2-.03	New Certificates of Authority. <i>(reserved)</i>
515-12-2-.04	Alternative Regulation. <i>(reserved)</i>
515-12-2-.05	Provision and Pricing of Telecommunications Services. <i>(reserved)</i>
515-12-2-.06	Prevention of Market Abuse and Unfair Competition. <i>(reserved)</i>
515-12-2-.07	Local Number Portability.
515-12-2-.08	Privacy Guidelines. <i>(reserved)</i>
515-12-2-.09	Universal Access Fund.

515-12-2-.09 Universal Access Fund.

(1) Procedure

- (a) On or before April 1, 1996, the Commission shall begin a hearing to determine actual reasonable cost guidelines. Thereafter, the Commission shall annually review the previously established guidelines. This review process shall be prescribed by the Commission.
 - 1. The Commission may take evidence on actual LEC costs; the actual or potential lower costs of basic local exchange service provided by competing LECs; and any standards, methods, or other means of determining the reasonable cost of basic local exchange service including but not limited to standard cost.

2. The Commission may take evidence on competitive neutrality of the Fund.
 3. The Commission may take evidence on actual reasonable cost for Tier 1 and Tier 2 companies.
 4. The Commission may take evidence regarding the source and amount of any other subsidies or contributions toward the provision of basic local exchange service.
 5. The Commission shall issue an order defining reasonable actual cost for the year.
- (b) The Commission shall require any local exchange company seeking reimbursement from the fund to file the information reasonably necessary to determine the actual and reasonable cost of providing basic local exchange service. The Commission shall conduct an evidentiary hearing to determine the amount, if any, necessary to be reimbursed from the UAF.

(2) Distribution

- (a) The Commission will determine annually the total amount of distributions from the Fund, and the amount that shall be distributed to each telecommunications company. Upon the Commission's determination of these amounts as issued in applicable Commission orders, and subject to the Commission's directions, the Fund Administrator shall issue the distributions quarterly to each qualified recipient company.
- (b) The Fund Administrator shall submit monthly reports to the Commission as to the status of distribution made.

(3) **Collection**

- (a) All telecommunications companies providing telecommunications services within Georgia shall contribute quarterly to the fund in a proportionate amount to their gross revenues from sale to end users of such telecommunications services, subject to these rules and any applicable Commission orders.
- (b) On an annual basis, the Commission will determine the total amount of contributions required in order to balance the fund, and the amount that shall be contributed by each telecommunications company.
- (c) The Commission's annual determination of the total amount of contributions required in order to balance the Fund shall be based upon the Commission's estimates of the difference between the reasonable actual costs of basic local exchange service throughout Georgia, and the amounts established by law, regulations or orders of the Commission as to the maximum amounts that may be charged for such services, other reimbursable cost, and reasonable amounts for costs of Fund administration.
- (d) The Commission will determine and notify each telecommunications company of its contribution amounts. The Fund Administrator shall collect the contribution amounts, and submit monthly reports to the Commission as to the status of contributions, including any delinquent amounts. In any instance when the Commission's determination is an estimate, the contribution amount shall be subject to true-up based upon a final Commission determination.
- (e) Upon its own motion or upon complaint, the Commission may determine after notice and opportunity for hearing whether a telecommunication company is providing private local exchange services or radio-based local exchange services in Georgia that compete with a telecommunications service provided in Georgia for which a contribution to the fund is required under O.C.G.A. § 46-5-167. If the Commission finds that such competition exists, the Commission may require the telecommunications company to contribute to the fund.

Authority Ga. L. 1878-79, p. 125; 1907, pp. 72-81; 1922, pp. 142-147; 1964, p. 338; 1965, p. 283; 1973, pp. 677-681; 1975, Sec. 2, pp. 404-412; 1995, p. 630, Sec. 2; 1995, pp. 888-900. **Administrative History.** Original Rule was filed on _____, 199_, effective _____, 199_, as specified by Ga. L. 1975, p. 411.

* * * * *

The Commission shall consider the adoption of the foregoing proposed Rule at its Administrative Session to be held at 10:00 a.m. on April 2, 1996 at its offices located at 244 Washington Street, S.W., Atlanta, Georgia 30334.

All interested parties who desire to do so may submit comments, data, views, arguments or any other relevant matters in writing to the Commission concerning the proposed Rule. Such written material must be delivered to the Commission no later than March 8, 1996. The Commission requests that, where possible, comments include specific proposed edits to the Rule.

Any written materials are to be filed with:

Terri M. Lyndall, Executive Secretary
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334-5701

All persons interested in presenting views or arguments orally should present a written request for an oral hearing by March 8, 1996. If by March 8, 1996, twenty-five persons who will be directly affected by the proposed Rule request an oral hearing, or if a government subdivision or an association having not less than twenty-five members requests an oral hearing, then oral comments and remarks will be received by the Commission at its offices at the above address at 2:00 p.m. on March 18, 1996 and continuing at 10:00 a.m. March 19, 1996. Otherwise, the Commission shall consider only those written comments filed in accordance with the provisions of this notice.

The authority for adoption of this Rule is found in O.C.G.A. §§ 46-2-20, 46-2-21, 46-2-23, 46-2-30, 46-5-160 *et seq.* and 46-5-167. Upon request by any interested party either prior to the adoption of the Rule or within thirty days thereafter, pursuant to O.C.G.A. § 50-13-4(a)(2), the Commission shall issue a concise statement of the principal reasons for and against adoption of the Rule and incorporating its reasons for overruling the considerations, if any, urged against its adoption.

WHEREFORE IT IS ORDERED that:


A. The Commission hereby issues this Notice of Proposed Rulemaking for consideration of a new proposed Rule concerning the Universal Access Fund pursuant to the Telecommunications and Competition Development Act of 1995.


B. This Notice of Proposed Rulemaking shall be published in conformance with the requirements of the Administrative Procedure Act as provided in O.C.G.A. § 50-13-4.

C. Any motion for reconsideration, rehearing or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

D. Jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 6th day of February, 1996.


Terri M. Lyndall
Executive Secretary


Dave Baker
Chairman

2/7/96.
Date

2/7/96
Date

TML/DB/lb

UNIVERSAL SERVICE AND ITS FUNDING

PREPARED FOR THE GEORGIA PUBLIC SERVICE COMMISSION

by

**Edwin A. Rosenberg, Ph.D.
Senior Research Specialist
Project Manager**


with

**John Stanford, J.D.
Graduate Research Associate**

**The National Regulatory Research Institute
The Ohio State University
1080 Carmack Road
Columbus, Ohio 43210-1002**

March 1996

The views and opinions expressed herein are those of the author. They are not necessarily those of the National Regulatory Research Institute, the National Association of Regulatory Utility Commissioners (NARUC), or NARUC-member Commissions. This research was funded under a contract with the Georgia Public Service Commission. However, the views expressed herein do not necessarily reflect those of the Georgia Public Service Commission or its Staff.



SECTION 1

UNIVERSAL SERVICE AND ITS FUNDING

Edwin A. Rosenberg, Ph.D.
Senior Research Specialist
The National Regulatory Research Institute

It has long been accepted that public policy should promote universal access to telecommunications service at reasonable rates. Historically, regulated monopolies were used to further the goal of universal telephone service. As a result a system of explicit and implicit support mechanisms were developed. Some of the implicit support mechanisms are not well targeted and may not be sustainable in a competitive environment. This section discusses options for state policies promoting universal service.

The views and opinions expressed herein are those of the author. They do not necessarily those of the National Regulatory Research Institute, the National Association of Regulatory Utility Commissioners (NARUC), or NARUC-member Commissions.

UNIVERSAL SERVICE AND ITS FUNDING

Universal Service and Social Goals

For several decades, public policy at both the state and federal levels has promoted universal access to and affordability of utility services, including telephone service. Not only has policy aimed at promoting universal access, but policy also aimed at providing universal single-party telephone service at affordable rates. The overall success of this policy may be seen in FCC studies that indicate that as of March 1995, 93.9% of U.S. households have telephones. The states' range was from 87.1% in Mississippi to 98.0% in Utah and Wisconsin (Georgia's penetration rate was 91.4%).¹ However, the national penetration rate had fallen somewhat during the 1994-1995 period after decades of steady increase, and there are pockets of low penetration in both rural and inner-city areas.

Universal Service — Health, Safety, and Network Externalities

Universal telephone service is a policy goal because the telephone links people to health care, police and fire departments, and other essential government functions. Having access to a telephone enables people to be fully functioning members of the community. Also, in the telephone sector it has long been argued that network externalities existed — that each individual's access to the network made telephone service more valuable to others connected to the network.

Universal Service - Access to Technology

More recently, universal service goals have evolved to include the idea that all areas and individuals should have reasonably similar access to advanced communications facilities and services. The National Information Infrastructure concept is an example. It has become important for schools, libraries, and health care facilities to be linked to information sources, to each other, and to citizens. Access to advanced technology is also important from an economic development and social equity perspective: Unless all areas and all citizens have access to evolving information technologies, economic differences between the "information haves" and "information have-not" areas and individuals will arise.

¹ See Alex Belinfante, *Telephone Subscribership in the United States*, (Washington, D.C.: Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, August 1995).

What is Supported

In addition to a general policy that promotes universal access to telephone service at an affordable rate, universal service policy supports service to areas, customers and services including:

High-Cost Areas

Individuals should be able to obtain telephone service at reasonable rates, even in areas that are much more expensive to serve than the average location.

Low-Income Consumers

Individuals should have access to the telecommunications network regardless of their economic situation.

Uneconomic Customers

Customers whose use of the telephone network does not generate a profit for the provider should still be able to obtain service (i.e., customers should not be denied service simply because they are unprofitable).

Other Worthy Services and Customers

This includes health-care providers, educational facilities, libraries, and other socially desirable uses of the network such as Telecommunications Relay Services (TRS), access to emergency services (911 and E-911).

Programs Aimed at Promoting Universal Service

Implicit Subsidies

Under traditional regulation, a number of untargeted, implicit subsidies exist that have the effect of promoting universal service — especially basic residential local service — by keeping rates relatively low. Commonly used implicit universal service subsidy mechanisms include:

- Using the access charges paid to the LECs by the IXC's, in part, to keep local rates low.
- Charging business customers considerably more for local service than residential customers (to the extent that the difference in rates does not reflect differences in costs).
- Using geographic averaging of costs to keep rates low for customers in higher cost, rural areas at the expense of customers in lower cost, urban areas.

- Designing jurisdictional separations procedures allow small LECs to allocate relatively more of their plant costs to the interstate jurisdiction.
- Pricing discretionary services well above cost, with some of the profits indirectly subsidizing basic local service.

These implicit subsidies have been used to promote universal service, but they can be criticized on several grounds. First, they are not targeted, so it is difficult to determine whether a customer pays or receives a subsidy.² Second, they introduce distortions in the relative prices of services, so consumers don't receive correct signals. Third, they may not provide strong incentives for the companies to be efficient. And fourth, they may not be sustainable in a competitive environment, as they may create opportunities for uneconomic entry.

Explicit Subsidies

In addition to the implicit subsidies, there are some explicit subsidy or support mechanisms. These include:

Universal Service Fund / High Cost Fund

After divestiture, the federal universal service mechanism was set up to provide subsidies to high access-cost local exchange companies (those with local loop costs above 115 percent of the national average). The interexchange carriers (IXCs) such as AT&T, MCI, Sprint, etc., pay into the fund based on the number of presubscribed lines. This support is explicit, as it goes to companies that qualify for support on the basis of having average loop costs above the national average.

Lifeline Rate and Linkup Programs

These explicit subsidy programs provide discounts for hookup or for usage by qualified customers. The programs are generally targeted and linked to other means-tested indicators of need such as qualification for other public assistance programs. Funding at the federal level is similar to the funding of the High Cost Fund.

² Rural residential customers who make few toll calls and do not subscribe to discretionary services almost certainly receive a subsidy. Urban business customers that make many toll calls almost certainly pay subsidies. Other cases are less clear.

Universal Service Challenges

Finding New Sources of Funding in Competitive Markets

The specter of competition will make it difficult to maintain the system of implicit support for universal service. However, as other providers enter the local market (cable TV, wireless, etc.) they can be made to contribute to universal service support — and they can receive support if they provide universal service.

Defining Universal Service under Changing Technology

Universal service used to mean voice-grade rotary dial tone service and a white pages listing. The concept is probably evolving to include digital features and access to information networks. The problem is (a) to define adequate universal service in the future — advanced universal service — and (b) to make it available and affordable to almost everyone.

State Options for Universal Service Programs

Current policy has overlapping parts, many of which are not targeted. Furthermore, because individual customers may both receive and provide subsidies, it may be difficult to determine the distribution of net benefits among individuals.³

Under the Telecommunications Act of 1996, state commissions have considerable ability to define universal service criteria, design a program to fund universal service support at the state level, and designate the carriers and customers who will be eligible to receive support. Options for state universal service programs, which are not mutually exclusive, include direct subsidies, establishing a state universal service fund, the use of vouchers, revising disconnect policies, developing outreach programs, and establishing minimum subscribership goals. The current mix of programs can be restructured into fewer simpler ones that are more explicit and are compatible with competition. All providers and users should be involved, and support should be limited to services, customers, and areas that merit it. Moreover, a means should be devised for adapting the definition of universal service to changing conditions such as the entry of new providers and/or new technologies and functionalities

³ See, for example, David L. Kaserman and John W. Mayo, "Cross-Subsidies in Telecommunications: Roadblocks on the Road to More Intelligent Telephone Pricing," *Yale Journal on Regulation* 11, no. 1 (1994): 119-147, and Ross C. Erickson, David L. Kaserman, and John W. Mayo, "Targeted and Untargeted Subsidy Schemes: Evidence from Post-Divestiture Efforts to Promote Universal Telephone Service," working paper, (The University of Tennessee: Knoxville, TN, 1995).

Providing Direct Subsidies from General Tax Revenues

Direct subsidies from general taxes are probably the most efficient, but such subsidies are not likely to be politically palatable. Current budget conditions at the state and federal level make even limited incentives such as tax credits for investments in certain areas unlikely. Small-scale demonstration projects such as those funded through the NTIA continue to be useful.

Establishing State Universal Service Funds

Basic and advanced universal service can be supported through a surcharge applied to all providers and covering all or almost all communications services. The fund can support service to low-income consumers and to customers in high-cost areas, and it can fund deployment of new technologies in designated areas.⁴ Several states have such funds in operation, and many more are studying this option.⁵

If a surcharge is implemented, there are a number of suggestions that can be made:

- Set the funding target in advance.

The amount of the surcharge to be collected should be determined in advance based on estimates of the dollars required to fund the universal service program (low-income support, high-cost support, technology deployment in designated areas, discounts for certain users, etc.), and the rate can be adjusted over time to reflect changes in demand and need for support.

- Keep the funds separate.

Monies collected through universal service surcharges should be segregated to ensure that they are used for the intended purpose of funding universal service. Also, monies collected for low-income support should be segregated (at least in an accounting sense) from monies for high-cost support, and from monies for technology deployment (i.e., separate sub-funds for high-cost support, low-income support, and technology deployment should be established).

- Keep it competitively neutral.

The administration, collection, and distribution of the fund should not favor or disadvantage any customer, carrier, or technology. In order to make its effects as neutral as possible relative to competitors and types of services, the surcharge must be broadly

⁴ Part of the monies collected through the surcharge might be designated to induce deployment of advanced infrastructure in rural or inner-city areas that would otherwise be receive such technologies later.

⁵ See the results of the NRRF Survey of State Universal Funding Mechanisms, below.

based. All providers of telecommunications services should pay or remit the surcharge. The surcharge must also cover a wide range of services so that all users pay some of the surcharge. To avoid double charging of resellers and other intermediaries, the surcharge should be applied only to services provided to end users (or resellers and other intermediaries should remit the surcharge only on their "value added"). Moreover, any eligible telecommunications carrier that provides the universal service package to customers in supported areas or who serves customers eligible for low-income support should be able to receive support payments.⁶ Finally, the amount of support per customer in a high-cost area might be based on a benchmark cost rather than on the stated, embedded cost of existing carriers.

- **Make it explicit.**

A universal service support mechanism that determines the amount to be raised, allows support to be targeted to areas, customers, and services that merit or require it, and collects and distributes support simply and neutrally should be favored. The existing system of multiple, overlapping, and often hidden universal service support mechanisms makes it difficult to target areas, customers, and services that merit support. Also, the existing system may not provide incentives for providers to be cost efficient.

Issuing Vouchers to Consumers⁷

Eligible end users could receive vouchers which could be used to purchase service from any willing provider. Vouchers make subsidies explicit, promote consumer choice, and induce competitive entry into high-cost areas.⁸ Vouchers can be targeted at customers, areas, and services that merit support. Only those providers willing and able to provide universal service could redeem vouchers. If based on the difference between the incumbent's stated cost of service and an average or maximum affordable rate, vouchers could create pressure for greater efficiency.⁹

⁶ The Telecommunications Act of 1996 (see Section 2, below) can be interpreting as requiring that state universal service funding mechanisms be competitively neutral.

⁷ A surcharge-based universal service fund and a voucher plan are not mutually exclusive, since a surcharge can be used to raise the revenues to fund the voucher plan.

⁸ Further discussion of vouchers may be found in John Borrows, "Vouchers and Universal Service," *The NRRRI Quarterly Bulletin*, 16, no. 3 (Fall 1995): 423-30, and Larry Blank, "Telephone Vouchers: Experiences in Other Markets," *The NRRRI Quarterly Bulletin*, 16, no. 4 (Winter 1995): 537-547).

⁹ Vouchers can be designed so that the out-of-pocket cost to consumers is no more than either a dollar amount based on national or state average rates or a percentage of median household income for the area.

Establishing a Minimum Subscribership Plan (MSP)¹⁰

Although universal telephone service is a goal, that goal is rarely stated explicitly. State commissions could set attainable subscribership goals and allow providers to choose the method of achieving them. Local access providers are likely to have better information about the demand for access and the cost of providing access than do regulators. If given pricing flexibility and positive incentives, providers are likely to choose least-cost methods. Moreover, the MSP may lead to prices that benefit marginal subscribers, who tend to have low incomes. In addition, MSP regulation can encourage high quality-of-service and is compatible with competition if all providers share in the goals. It is also possible to use goals or targets to induce deployment of new technologies.

Offering Measured Service Options

Local measured service and limited-use basic service at discounted rates may be useful. Local measured service would reduce the implicit subsidy from light users to heavy users and might allow basic access charges to be reduced. Mandatory local measured service may prove difficult to implement, however, as residential customers have a preference for flat-rate service, and it might increase the bills of some low-income, high-use customers.

Designing Disconnect & Reconnect Policies to Promote Subscribership

Disconnect policies can be designed to promote subscribership and keep customers on the network. A policy that prohibits disconnection of basic local service for nonpayment of toll or enhanced service bills might be considered. A corollary would apply partial payments first to basic local access then to other charges so that customers would not lose basic exchange service so long as they were paying at least that amount. Free or low-cost toll blocking would help keep subscribers on the network, especially those who have trouble controlling and paying toll charges. Another option is to establish toll line-of-credit requirements or limits for customers who have had a history of problems paying their bill.

Targeting Pockets of Low Penetration

Pockets of low penetration may be targeted by considering the social and demographic factors that keep some groups from being subscribers. Universal service programs can be designed to recognize and utilize cultural factors involved in low subscribership. Some groups may benefit from targeted state universal service plans such as outreach programs aimed at non-English speaking households, voice mail for the homeless, etc.

¹⁰ See Larry Robert Blank, "The Minimum Subscribership Plan (MSP): Policy Reform for Local Telephony," presented at the *Telecommunications Policy Research Conference*, Solomons, Maryland, September 30 - October 2, 1995.

Allowing Competition to Promote Universal Service

Although competition and universal service are thought to be in conflict, they may not be. An examination of the results of local access competition in the United Kingdom and in New Zealand supports the idea that competition may be good for subscribership.¹¹ Competition to provide local access services may increase penetration by putting downward pressure on costs and rates or by changing the way companies allocate costs to access. Unless people subscribe to the network, they cannot purchase high-margin discretionary or enhanced services. As the network becomes used for a wider variety of services, more of the cost of local loop facilities may be recovered from new services. In addition, the costs of upgrading the network to deliver advanced services should be recovered from those services, not from basic access.

¹¹ See David Gabel and William Pollard, *Privatization, Deregulation, and Competition: Learning From the Cases of Telecommunications in New Zealand and the United Kingdom*. (Columbus, Ohio: The National Regulatory Research Institute, January 1995).

SECTION 2

Universal Service Provisions in the Telecommunications Act of 1996 [P.L. 104-104] — With Comments

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This section contains excerpts from those sections of the Telecommunications Act of 1996 that the author believes are most relevant for a discussion of universal service issues. In these excerpts, the language of the Act has not been altered or edited, except as indicated by ellipses, and the author's comments on the Act are placed in the shaded boxes.

Universal Service Provisions in the Telecommunications Act of 1996 [P.L. 104-104] — With Comments

The Telecommunications Act of 1996 opens most telecommunications markets to competition and explicitly maintains universal telephone service as a national policy goal. The Act includes a major role for state commissions in defining national and state universal service offerings and goals and in developing funding mechanisms. The Act [Section 102] also charges the state commissions with designating those telecommunications providers who will be eligible to receive universal service support (eligible telecommunications carriers).

- **Section 253, REMOVAL OF BARRIERS TO ENTRY,**

(a) IN GENERAL-

No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

(b) STATE REGULATORY AUTHORITY-

Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

Although the states are required to open local exchange markets to competition (with some exemptions for rural carriers), the states have the authority to take actions necessary to develop and meet universal services goals, so long as state commission actions are nondiscriminatory and do not raise unnecessary barriers to competition.